

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:	§	
SKYPORT GLOBAL COMMUNICATIONS, INC., Debtor	§	
JOANNE SCHERMERHORN, ET AL., Appellants/Plaintiffs	§	CIVIL ACTION NO. 4:11- CV-1524 (Appeal in Bankruptcy Case No. 08-36737-H4-7 and Adversary Nos. 10-03150 and 10-03225- Consolidated Under 10-03150)
v.	§	
CENTURYTEL, INC. (A/K/A CENTURYLINK), ET AL., Appellees/Defendants	§	
SKYPORT GLOBAL COMMUNICATIONS, INC., ET AL., Appellees/Cross-Appellants/Plaintiffs	§	
v.	§	
JOANNE SCHERMERHORN, ET AL., Appellants/Cross-Appellees/Defendants	§	

APPELLANTS' MOTION FOR LEAVE TO FILE BRIEF EXCEEDING 25 PAGES

TO THE UNITED STATES DISTRICT COURT:

COME NOW, Joanne Schermerhorn, John K. Waymire, Chet Gutowsky, John Llewellyn, Joseph A. Lopez, Robert Foote, BLF Partners Ltd., ECAL Partners, Ltd., Whizkid Venture, LLC, Bella Krieger, Martin Pollack, George Metcalf, Floster Holdings, LLC, Melvyn Reiser, Barry Klein, Cheskel Kahan, John A. Rees, Brian W. Harle, Michael Stein, Lawrence Solomon, Tracy Estein & David Togut, Jason Charles Togut Truste, BMT Granto Trust, Lynn Joyce Elstein Trust, Charles Stack, Joseph Baker, Movada, Ltd., Puddy, Ltd., Draco Capital, Inc., Edward Pascal, Robert Mendel, Stanley Beraznik, Don Bui, Ben Ariano, 3791068 Canada, Inc., Peter Taylor, John E. Panneton, Wayne C. Fox, David Currie, Byron Messier, Darshal Khurana,

Mateo Novelli, Diya Al-Sarraj, Sequoia Aggressive Growth Fund, Ltd., Sequoia Diversified Growth Fund, Rig III Fund, Ltd. Aran Asset Management SA, Semper Gestion SA (the “Schermerhorn Parties”), and file this Motion for Leave to File Brief Exceeding 25 Pages (the “Motion”) and would respectfully show unto this Court the following:

1. On April 20, 2011, the Schermerhorn Parties timely filed their Notice of Appeal thereby commencing this Civil Action No. 4:11-CV-1524 (the “Appeal”).

2. Thereafter, on April 27, 2011, Skyport Global Communications, Inc. n/k/a Trustcomm, Inc., Robert Kubbernus, Balaton Group, Inc., Bankton Financial Corporation, LLC and Bankton Financial Corporation (the “Kubbernus Parties”) filed their Notice of Appeal thereby commencing a cross-appeal in this matter (the “Cross-Appeal”).

3. Subsequently, the Schermerhorn Parties, the Kubbernus Parties, and the other parties to this Appeal, specifically CenturyTel, Inc. (a/k/a Century Link), Clarence Marshall, R. Stewart Ewing, Jr., Michael E. Maslowski, Harvey P. Perry (the “CenturyTel Parties”) and Wilson Vukelich LLP (the “Wilson Vukelich Parties”) designated the record on appeal (the “Record”).

4. On June 15, 2011, the United States District Clerk filed its Notice of Docketing an Appeal thereby commencing the deadlines for filing of appellate briefs in this case. According to Fed. R. Bankr. P. 8009, the brief of the Schermerhorn Parties is due on June 29, 2011. Upon Motion by the Schermerhorn Parties to extend this date, this Court entered its Order Granting Appellants’ Motion for Extension of Time to File Briefs, thereby extending the time for Appellants to file their principal brief to July 21, 2011.

5. Although Fed. R. Bankr. P. 8010(c) provides that principal briefs shall not exceed 50 pages, exclusive of pages containing the table of contents, table of citations and any

addendum containing statutes, rules, regulations or similar material, Section 6 to this Court's "Court Procedures" states that "[w]ithout leave of court, any brief or memoranda shall be limited to 25 pages."

6. As indicated in the Appellants' Statement of the Issues, the numerous issues on appeal are divided into Part I and Part II. *See* Appellants' Statement of the Issues, Dkt. No. 4 in this Appeal, Item No. 2. Part I is appealing 8 different Orders/Memoranda and alleging multiple points of error. Part II is appealing 3 different Orders/Memoranda and alleging multiple points of error. In light of the multitude of issues, the Record in this Appeal contains 372+ documents, which include lengthy briefs and transcripts, exhibits, etc. Therefore, while the Schermerhorn Parties hope to provide this Court with a brief analyzing the issues and the errors alleged as succinctly as is possible, the Schermerhorn Parties believe that it will likely take more than 25 pages to provide this Court with the facts, argument and Record citations necessary for its review.

7. Based upon the foregoing, the Schermerhorn Parties respectfully request leave to file a principal brief in this Appeal exceeding 25 pages.

8. The Kubernus Parties and the Wilson Vukelich Parties have advised that they do not oppose this Motion. As of the filing of this Motion, the Schermerhorn Parties have not received a response from the CenturyTel Parties.

WHEREFORE, PREMISES CONSIDERED, the Schermerhorn Parties pray that this Court grant the Motion allowing them to file a principal brief exceeding 25 pages and grant them such other and further relief as is just.

DATED the 9th day of July, 2011.

Respectfully submitted,

MCFALL, BREITBEIL & SMITH, P.C.

By: /S/ *Blanche D. Smith*

W. STEVE SMITH

State Bar No. 18700000

BLANCHE D. SMITH

State Bar No. 00783991

1331 Lamar Street, Ste. 1250

Houston, Texas 77010

Telephone: (713) 590-9300

Facsimile: (713) 590-9399

SAMUEL GOLDMAN & ASSOC.

By: /s/ Samuel Goldman

SAMUEL GOLDMAN
100 Park Ave., 20th Fl.
New York, NY 10017
Tel. (212) 725-1400
Fax. (212) 725-0805
Email: sg@sgalaw.com

ATTORNEYS FOR APPELLANTS

CERTIFICATE OF CONFERENCE

I hereby certify that on July 8, 2011, as one of the counsel for the Schermerhorn Parties, I contacted counsel for all other interested parties in this matter regarding this Motion. The Kubbernus Parties and the Wilson Vukelich Parties advised that they do not oppose this Motion. However, counsel did not receive a response from counsel for the CenturyTel Parties by the time of the filing of this Motion.

/s/ Blanche D. Smith
BLANCHE D. SMITH

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document were served upon the following parties in interest/counsel for all interested parties in this matter via First Class U.S. Mail, postage prepaid and/or by electronic mail pursuant to Amended Local Bankruptcy Rule 5005, on the 9th day of July, 2011:

Office of U.S. Trustee
515 Rusk Ave., Ste. 3516
Houston, TX 77002

Edward L. Rothberg
Annie Catmull
Hoover Slovacek, L.P.
5847 San Felipe, Ste. 2200
Houston, TX 77057

Hugh M. Ray, III
McKool Smith, P.C.
600 Travis, Suite 7000
Houston, TX 77002

David R. Jones
Elizabeth Freeman
Porter & Hedges, LLP
1000 Main Street, 36th Fl.
Houston, TX 77002

Robert M. Manley
McKool Smith, P.C.

300 Crescent Court, Suite 1500
Dallas, TX 75201

/s/ *Blanche D. Smith*
BLANCHE D. SMITH